

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

GINA SKINNER,

Plaintiff,

v.

Civil Action No. 1:04CV194
(STAMP)

TAYLOR COUNTY JAIL,
TAYLOR COUNTY,
DEPARTMENT OF CORRECTIONS
OF WEST VIRGINIA
GRAFTON CITY HOSPITAL,
LIEUTENANT WILHELM,
SARGEANT JOHN MICK,
ERICK SWICK, JAMES SACORKSKI,
NELSON MOORE, CHUCK SWIGER,
ANDREW PERKS and DR. BYER,

Defendants.

ORDER ACCEPTING AND ADOPTING
MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION
AND DISMISSING CIVIL ACTION

On April 27, 2005, United States Magistrate Judge John S. Kaull entered a report in the above-styled action recommending that the plaintiff's case be dismissed for failure to pay the \$150.00 filing fee and for failure to file the proper forms to proceed without payment of fees and finally for failing to file an amended complaint. The magistrate judge's report and recommendation was mailed to plaintiff Gina Skinner ("Skinner") at the address she had provided to the Court. On May 6, 2005, this Court received Magistrate Judge Kaull's report and recommendation in an envelope marked return to sender which indicated that plaintiff Skinner has been paroled.

Upon filing of petition, Skinner was issued a notice of general guidelines for appearing pro se in federal court. These guidelines direct the plaintiff to keep the Court and opposing counsel advised of her most current address at all times and further indicates that failure to do so could result in the action being dismissed without prejudice. Because the plaintiff has failed to advise this Court of her most current address, this Court will review the magistrate judge's report and recommendation as if no objection has been filed.

The magistrate judge advised the parties that, pursuant to 28 U.S.C. § 636(b)(1)(C), any party may file written objections to his proposed findings and recommendations within ten days after being served with a copy of the magistrate judge's recommendation. To date, no objections have been filed.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a de novo review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the district court to review the recommendation under the standards that the district court believes are appropriate and, under these circumstances, the parties' right to de novo review is waived. See Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982); Web v. Califona, 486 F. Supp. 825 (E.D. Cal. 1979). Accordingly, this Court reviews the report and recommendation of the magistrate judge for clear error.

Upon review of the record, this Court finds that the plaintiff has neither paid her \$150.00 filing fee nor filed a completed application to proceed without prepayment of fees. In addition, this Court finds that the plaintiff has failed to file an amended complaint. Accordingly, this Court ACCEPTS and ADOPTS Magistrate Judge Kaul's report and recommendation. Therefore, the above-styled civil action is hereby DISMISSED and STRICKEN from the active docket of this Court.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to counsel of record herein.

DATED: May 18, 2005

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE